

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

CADDO SMITH, JR., #00045006 §
VS. § CIVIL ACTION NO. 6:18cv511
UNKNOWN GUARDS §

ORDER OF DISMISSAL

Plaintiff Caddo Smith, an inmate confined at the Henderson County Jail, proceeding *pro se*, filed this civil rights lawsuit alleging violations of his constitutional rights. The case was referred to the United States Magistrate Judge, the Honorable Judge K. Nicole Mitchell, pursuant to 28 U.S.C. §636(b)(1) and (3) as well as the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On February 4, 2019, Judge Mitchell issued a Report, (Dkt. #8), recommending that Plaintiff's civil rights lawsuit be dismissed, without prejudice, for failing to obey two orders of the court and to prosecute his case. Specifically, Judge Mitchell found that Plaintiff failed to obey or respond to this court's orders issued on October 2, 2018, (Dkt. #'s 4, 5), and has not communicated with the court since September 2018. A copy of this Report was sent to Plaintiff's address; return receipt requested. However, to date, no objections to the Report have been received.

Because Plaintiff has failed to file objections to Judge Mitchell's Report, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n.*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #8), is **ADOPTED** as the opinion of the court. Further, it is

ORDERED that the above-styled civil action is **DISMISSED**, without prejudice, for Plaintiff's failure to obey orders and failure to prosecute. Finally, it is
ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

SIGNED this the 29 day of April, 2019.



Thad Heartfield
United States District Judge